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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Priority

1.   Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which

papers have been placed of record in the file.

Information Disclosure Statement

2.   The information disclosure statements (IDS) submitted on 12 September 2006

and 19 June 2008 have been considered by the examiner.

Claim Objections

3.   Claims 1 and 3 are objected to because of the following informalities:

- Claim 1 recites the term "teh" in the fourteenth line. This term should be

replaced with --the--.

- Claim 1 recites "(b/a)", "(hereinafter, referred to as "long radius")" and

"(hereinafter, referred to as "short radius")". These terms are included in parenthesis.

The presence of the parenthesis makes it unclear whether the terms included in the

parenthesis are being recited as part of the claim or not. The parenthesis should be

deleted in order to correct this deficiency and make clear that these terms are being recited as part of the claim.

- Claim 3 recites points "(p, c): (43 degrees, 10 degrees), (41 degrees, 14 degrees), (37 degrees, 23 degrees), (35 degrees, 33 degrees), (35 degrees, 36 degrees), (37 degrees, 42 degrees), (39 degrees, 42 degrees), (41 degrees, 36 degrees), (43 degrees, 24 degrees) and (44.7 degrees, 9 degrees)", '(p)" and "(c)". These terms are included in parenthesis. The presence of the parenthesis makes it unclear whether the terms included in the parenthesis are being recited as part of the claim or not. The parenthesis should be deleted in order to correct this deficiency and make clear that these terms are being recited as part of the claim.

Correction is required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1, 2 and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itzkowitz (US 5,713,219 A) in view of Kedem et al. (US 2005/0115275 A1).

Itzkowitz discloses an oval-cut diamond (10c,10d) comprising a columnar girdle (24c,24d), a crown provided above the girdle and having an octagonal table facet (12c,

12d) on a top of the crown and a pavilion provided below the girdle (Figs. 2c,2d,3c,3d, 4c and 4d). The girdle has an upper ridge between the crown and the girdle, a lower ridge between the pavilion and the girdle and a contour line of a girdle cross-section, parallel to the table facet, being in an oval or oval-like shape (Figs. 2c,2d,3c,3d,4c and 4d). The diamond has a central plane, a straight central axis and eight-dividing planes (Figs. 2c,2d,3c,3d,4c and 4d). The central plane contains a long axis (running along the long side of the diamond) of the contour line and being a plane vertical to the table facet (Figs. 2c,2d,3c, 3d,4c and 4d). The straight central axis on the central plane crosses vertically the table facet at a center of the long axis of the contour line of the girdle cross-section (Figs. 2c,2d,3c,3d,4c and 4d). The eight-dividing planes are composed of the central plane, a plane containing a short axis of the contour line of the girdle cross-section and the central axis and planes dividing an angle around the central axis between the plane containing the short axis and the central axis and the central plane equally into two (Figs. 2c,2d,3c,3d,4c and 4d). The table facet has two opposite vertexes on the central plane and six vertexes symmetrical with respect to the central plane (Figs. 2c, 2d,3c,3d,4c and 4d). The crown has eight tetragonal crown main facets (18c that is between star face and upper girdle facet), eight triangular star facets (having one side shared with the table) and sixteen upper girdle facets (18c that has one side shared with the girdle) on a diamond circumference between the girdle upper ridge and the table facet. Each of the crown main facets is a tetragon having two opposite vertexes composed of a point, at which each of the eight-dividing planes crosses the girdle upper ridge and each vertex of the table facet, and other vertexes each owned

jointly with each of two other crown main facets neighboring on the crown main facet (Figs. 2c,2d, 4c and 4d). Each of the star facets is a triangle having a bottom side coinciding with each side of the table facet and an opposite vertex coinciding with each of the other vertexes jointly owned by two neighboring crown main facets each having a vertex at each end of the bottom side (Figs. 2c,2d,4c and 4d). Each of the upper girdle facets is a triangle or an oval sector having a bottom side coinciding with a side, whose end is on the girdle upper ridge, among sides of the crown main facets and a vertex on the girdle upper ridge (Figs. 2c,2d,4c and 4d). The pavilion has a bottom apex (22c,22d) at a lower end of the central axis and eight pavilion main facets (extending from 22c or 22d) and sixteen lower girdle facets (16c,16d) on the diamond circumference between the bottom apex and the girdle lower ridge (Figs. 3c,3d,4c and 4d). Each of the pavilion main facets is a tetragon or a part of a tetragon extending from the bottom apex toward a crossing point of each of the eight-dividing planes with the girdle lower ridge on the diamond circumference between the bottom apex and the girdle lower ridge, and having a side, whose end coincides with the bottom apex, jointly owned with each of two other pavilion main facets neighboring on the pavilion main facet (Figs. 3c,3d,4c and 4d). Each of at least seven pavilion main facets among the pavilion main facets is formed with opposite vertexes composed of a crossing point of each of the eight-dividing planes with the girdle and the bottom apex (Figs. 2c,2d,3c,3d,4c and 4d). Each of the lower girdle facets formed between the pavilion main facets and the girdle lower ridge is a triangle or an oval sector having a bottom side coinciding with a side having an end on the girdle lower ridge among sides of each

of the pavilion main facets and a vertex on the girdle lower ridge (Figs. 3c,3d, 4c and

4d). Each of the lower girdle facets is disposed on each of both sides of each of the

pavilion main facets (Figs. 2c,2d,3c,3d, 4c and 4d). The oval or oval-like shape formed

by the contour line of the girdle cross-section has a ratio of a short radius to a long

radius, b/a, of 0.6 or more, in which a radius in a long axis direction of the shape is

denoted as "a", and a radius in a short axis direction of the shape is denoted as "b"

(Figs. 2c,2d,3c and 3d). Each pair of pairs of pavilion main facets, of which each pair is

composed of two pavilion main facets positioned opposite to each other with respect to

the central axis and the table facet have a common plane vertical to all of them within

them and each pair of pairs of crown main facets, of which each pair is composed of

two crown main facets positioned opposite to each other with respect to the central axis

and the table facet have a common plane vertical to all of them within them (Figs.

2c,2d,3c,3d,4c and 4d). Itzkowitz fails to discloses that a circumscribed circle having a

center on the central axis and circumscribing the contour line at an end of the long axis,

that each of at least seven pavilion main facets among the pavilion main facets is

formed with opposite vertexes composed of a crossing point of each of the eight-

dividing planes with the circumscribed circle and the bottom apex, that second eight-

dividing planes dividing an angle around the central axis are between two neighboring

eight-dividing planes and that each of the pavilion main facets is formed with opposite

vertexes composed of a crossing point of each of the second eight-dividing planes with

the circumscribed circle and the bottom apex and has a substantially equal pavilion

angle with the table facet. However, Kedem et al. teaches a diamond comprising a

columnar girdle (52), a crown (50) provided above the girdle and having an octagonal

table facet (55) on a top of the crown and a pavilion (70) provided below the girdle (Figs.

7-18). The girdle has an upper ridge between the crown and the girdle, a lower ridge

between the pavilion and the girdle and a contour line of a girdle cross-section, parallel

to the table facet, being in a square or square-like shape (Figs. 11 and 12). The

diamond has a central plane, a straight central axis (running through 69), a

circumscribed circle (103) and eight-dividing planes (105,106,107,108) (Figs. 7-18).

The central plane contains an axis (running between opposite sides of the diamond) of

the contour line and being a plane vertical to the table facet (Figs. 7-18). The straight

central axis on the central plane crosses vertically the table facet at a center of the axis

of the contour line of the girdle cross-section (Figs. 7-18). The circumscribed circle

(103) has a center (at culet) on the central axis and circumscribing the contour line at

both ends of the long axis of the contour line (Figs. 7-18). The circumscribed circle

provides enhanced brilliance and fire, as well as appearance of a table reflection

(Paragraph 0068). The eight-dividing planes are composed of the central plane, a

plane containing another axis of the contour line of the girdle cross-section and the

central axis and planes dividing an angle around the central axis between the plane

containing the another axis and the central axis and the central plane equally into two

(Figs. 7-18). The table facet has two opposite vertexes on the central plane and six

vertexes symmetrical with respect to the central plane (Figs. 7-18). The crown has

eight tetragonal crown main facets (58), eight triangular star facets (21) and sixteen

upper girdle facets (60,61,62,63,64,65,66,67) on a diamond circumference between the

girdle upper ridge and the table facet. Each of the crown main facets is a tetragon

having two opposite vertexes composed of a point, at which each of the eight-dividing

planes crosses the girdle upper ridge and each vertex of the table facet, and other

vertexes each owned jointly with each of two other crown main facets neighboring on

the crown main facet (Figs. 7 and 10). Each of the star facets is a triangle having a

bottom side coinciding with each side of the table facet and an opposite vertex

coinciding with each of the other vertexes jointly owned by two neighboring crown main

facets each having a vertex at each end of the bottom side (Figs. 7 and 10). Each of

the upper girdle facets is a triangle or an oval sector having a bottom side coinciding

with a side, whose end is on the girdle upper ridge, among sides of the crown main

facets and a vertex on the girdle upper ridge (Figs. 7 and 10). The pavilion has a

bottom apex (69) at a lower end of the central axis and eight pavilion main facets

(90,91,92,93,94,95,96,97) and sixteen lower girdle facets (76,77,78,79,80,81,82,83) on

the diamond perimeter between the bottom apex and the girdle lower ridge (Figs. 8-10).

Each of the pavilion main facets is a tetragon or a part of a tetragon extending from the

bottom apex toward a crossing point of each of the eight-dividing planes with the girdle

lower ridge on the diamond perimeter between the bottom apex and the girdle lower

ridge, and having a side, whose end coincides with the bottom apex, jointly owned with

each of two other pavilion main facets neighboring on the pavilion main facet (Figs. 8-

10). Each of at least seven pavilion main facets among the pavilion main facets is

formed with opposite vertexes composed of a crossing point of each of the eight-

dividing planes with circumscribed circle and the bottom apex (Figs. 9 and 10). Each of

the lower girdle facets formed between the pavilion main facets and the girdle lower

ridge is a triangle or an oval sector having a bottom side coinciding with a side having

an end on the girdle lower ridge among sides of each of the pavilion main facets and a

vertex on the girdle lower ridge (Figs. 8-10). Each of the lower girdle facets is disposed

on each of both sides of each of the pavilion main facets (Figs. 8-10). Each pair of pairs

of pavilion main facets, of which each pair is composed of two pavilion main facets

positioned opposite to each other with respect to the central axis and the table facet

have a common plane vertical to all of them within them and each pair of pairs of crown

main facets, of which each pair is composed of two crown main facets positioned

opposite to each other with respect to the central axis and the table facet have a

common plane vertical to all of them within them (Figs. 10-12). Therefore, it would have

been obvious to one having ordinary skill in the art at the time the invention was made

to have the circumscribed circle having a center on the central axis and circumscribing

the contour line at an end of an axis and that each of at least seven pavilion main facets

among the pavilion main facets is formed with opposite vertexes composed of a

crossing point of each of the eight-dividing planes with the circumscribed circle and the

bottom apex as taught by Kedem et al. in the diamond of Itzkowitz. Doing so, enhances

the appearance of the diamond since the circumscribed circle provides enhanced

brilliance and fire, as well as appearance of a table reflection. Regarding to the second

eight-dividing planes dividing an angle around the central axis are between two

neighboring eight-dividing planes and each of the pavilion main facets is formed with

opposite vertexes composed of a crossing point of each of the second eight-dividing

planes with the circumscribed circle and the bottom apex and has a substantially equal

pavilion angle with the table facet, it would have been obvious to one having ordinary

skill in the art at the time of Applicant's invention to provide second eight-dividing planes

dividing an angle around the central axis are between two neighboring eight-dividing

planes and each of the pavilion main facets is formed with opposite vertexes composed

of a crossing point of each of the second eight-dividing planes with the circumscribed

circle and the bottom apex and has a substantially equal pavilion angle with the table

facet since it is extremely old, well known, readily apparent and profoundly obvious to

change the size, **shape**, orientation, angles, percentages, and create ranges for facets

and the gemstone in its entirely as to merely alter the aesthetics of said gemstone for

the corresponding and resulting properties including brilliance, radiance, etc. for the

utility of mere user preference. It is also extremely well known that altering said features

will produce different properties radiating from said gemstone, depending on the

changes and alterations made. Therein, once again, lies the pertinence behind such, as

no unexpected result, viewed by one skilled in the art; will occur, with any of the above

possible changes or alterations to any given gemstone.

Each of the crown main facets as discloses by Itzkowitz has the substantially a

substantially equal crown angle to the table facet (Figs. 2c,2d,3c,3d,4c and 4d).

The girdle has a substantially equal girdle height around a whole circumference

of the girdle and facets in the pavilion excluding lower girdle facets neighboring on the

long axis have adjusting facets between a respective facet and the girdle lower ridge

having a larger angle to the table facet than the pavilion angle and forming a ridge

between the respective facet and each of the adjusting facets (Figs. 2c,2d,3c,3d, 4c and

4d).

The contour line of the girdle cross-section parallel to the table is oval (Figs. 2c,

2d,3c,3d,4c and 4d).

Itzkowitz and Kedem et al. fails to disclose that the contour line of the girdle

cross-section parallel to the table is in a shape of two oval sectors crossing each other

or that the contour line of the girdle cross-section parallel to the table is in a shape of

three oval sectors crossing each other. However, it would have been obvious to one

having ordinary skill in the art at the time of Applicant's invention to have the contour

line of the girdle cross-section parallel to the table is in a shape of two oval sectors

crossing each other or that the contour line of the girdle cross-section parallel to the

table is in a shape of three oval sectors crossing each other by providing a diamond in

the shape of a marquise cut or a pear cut since it is extremely old, well known, readily

apparent and profoundly obvious to change the size, **shape**, orientation, angles,

percentages, and create ranges for facets and the gemstone in its entirely as to merely

alter the aesthetics of said gemstone for the corresponding and resulting properties

including brilliance, radiance, etc. for the utility of mere user preference. It is also

extremely well known that altering said features will produce different properties

radiating from said gemstone, depending on the changes and alterations made.

Therein, once again, lies the pertinence behind such, as no unexpected result, viewed

by one skilled in the art; will occur, with any of the above possible changes or alterations

to any given gemstone.

6.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itzkowitz

in view of Kedem et al. as applied to claims 4 and 9 above, and further in view of

Kawabuchi et al. (US 2003/0154741).

Itzkowitz and Kedem et al. fail to discloses that a pavilion angle to the table facet

each of the pavilion main facets has and a crown angle to the table facet each of the

crown main facets has are in a region surrounded by lines connecting points (p, c): (43

degrees, 10 degrees), (41 degrees, 14 degrees), (37 degrees, 23 degrees), (35

degrees, 33 degrees), (35 degrees, 36 degrees), (37 degrees, 42 degrees), (39

degrees, 42 degrees), (41 degrees, 36 degrees), (43 degrees, 24 degrees) and (44.7

degrees, 9 degrees) on a graph drawn with pavilion angles (p) in a vertical line and

crown angles (c) in a horizontal line since Itzkowitz and Kedem et al. fail to disclose the

values for the crown angles and the pavilion angles or that the values can be view on a

graph. However, Kawabuchi et al. teaches that a cut design of diamonds (1) providing

plenty of visual-perceptible reflection. The diamond comprises a columnar girdle (12), a

crown (11,14,15,16) provided above the girdle and having an octagonal table facet (11)

on a top of the crown and a pavilion (13,17,18) provided below the girdle (Figs. 1A-1C).

The girdle has an upper ridge between the crown and the girdle, a lower ridge between

the pavilion and the girdle and a contour line of a girdle cross-section, parallel to the

table facet, being in a circle or circular-like shape (Figs. 1A-1C). The diamond has a

central plane, a straight central axis (Z) and eight-dividing planes (21) (Figs. 1A-1C).

The central plane contains an axis of the contour line and being a plane vertical to the

table facet (Figs. 1A-1C). The straight central axis on the central plane crosses

vertically the table facet at a center of the long axis of the contour line of the girdle

cross-section (Fig. 1B). Each of at least seven pavilion main facets among the pavilion

main facets is formed with opposite vertexes composed of a crossing point of each of

the eight-dividing planes with the girdle and the bottom apex (Figs. 9 and 10). The

eight-dividing planes are composed of the central plane, a plane containing another axis

of the contour line of the girdle cross-section and the central axis and planes dividing an

angle around the central axis between the plane containing the another axis and the

central axis and the central plane equally into two (Figs. 1A-1C). The table facet has

two opposite vertexes on the central plane and six vertexes symmetrical with respect to

the central plane (Figs. 1A-1C). The crown has eight tetragonal crown main facets (14),

eight triangular star facets (15) and sixteen upper girdle facets (16) on a diamond

circumference between the girdle upper ridge and the table facet. Each of the crown

main facets is a tetragon having two opposite vertexes composed of a point, at which

each of the eight-dividing planes crosses the girdle upper ridge and each vertex of the

table facet, and other vertexes each owned jointly with each of two other crown main

facets neighboring on the crown main facet (Fig. 1A). Each of the star facets is a

triangle having a bottom side coinciding with each side of the table facet and an

opposite vertex coinciding with each of the other vertexes jointly owned by two

neighboring crown main facets each having a vertex at each end of the bottom side

(Fig. 1A). Each of the upper girdle facets is a triangle or an oval sector having a bottom

side coinciding with a side, whose end is on the girdle upper ridge, among sides of the

crown main facets and a vertex on the girdle upper ridge (Figs. 1A). The pavilion has a

bottom apex (13) at a lower end of the central axis and eight pavilion main facets (17)

and sixteen lower girdle facets (18) on the diamond perimeter between the bottom apex

and the girdle lower ridge (Fig. 1C). Each of the pavilion main facets is a tetragon or a

part of a tetragon extending from the bottom apex toward a crossing point of each of the

eight-dividing planes with the girdle lower ridge on the diamond perimeter between the

bottom apex and the girdle lower ridge, and having a side, whose end coincides with the

bottom apex, jointly owned with each of two other pavilion main facets neighboring on

the pavilion main facet (Fig. 1C). Each of at least seven pavilion main facets among the

pavilion main facets is formed with opposite vertexes composed of a crossing point of

each of the eight-dividing planes with the girdle and the bottom apex (Fig. 1B and 1C).

Each of the lower girdle facets formed between the pavilion main facets and the girdle

lower ridge is a triangle or an oval sector having a bottom side coinciding with a side

having an end on the girdle lower ridge among sides of each of the pavilion main facets

and a vertex on the girdle lower ridge (Figs. 1B and 1C). Each of the lower girdle facets

is disposed on each of both sides of each of the pavilion main facets (Figs. 1A and 1C).

Each pair of pairs of pavilion main facets, of which each pair is composed of two

pavilion main facets positioned opposite to each other with respect to the central axis

and the table facet have a common plane vertical to all of them within them and each

pair of pairs of crown main facets, of which each pair is composed of two crown main

facets positioned opposite to each other with respect to the central axis and the table

facet have a common plane vertical to all of them within them (Figs. 1B). The pavilion

angle p to the table facet each of the pavilion main facets has and a crown angle to the

table facet each of the crown main facets has are in a region surrounded by lines connecting points, "p, c", on a graph drawn with pavilion angles ,p, in a vertical line and crown angles, c, in a horizontal line. The graph serves to show a region of the pavilion angle p and the crown angle c that enhances the amount of effective visual-perceptible reflection rays (Paragraph 0074 and 0158). Therefore, it would have been obvious to one having ordinary skill in the art at time the invention was made to have the pavilion angle p to the table facet each of the pavilion main facets has and a crown angle to the table facet each of the crown main facets has are in a region surrounded by lines connecting points, "p, c", on a graph drawn with pavilion angles ,p, in a vertical line and crown angles, c, in a horizontal line as taught by Kawabuchi et al. in the diamond disclosed by Itzkowitz and modified by Kedem et al. Doing so, serves to show a region of the pavilion angle p and the crown angle c that enhances the amount of effective visual-perceptible reflection rays. With respect to the specific angle that are being claimed, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the points "p, c": (43 degrees, 10 degrees), (41 degrees, 14 degrees), (37 degrees, 23 degrees), (35 degrees, 33 degrees), (35 degrees, 36 degrees), (37 degrees, 42 degrees), (39 degrees, 42 degrees), (41 degrees, 36 degrees), (43 degrees, 24 degrees) and (44.7 degrees, 9 degrees) on the graph since it is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirely as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of

mere user preference. It is also extremely well known that altering said features will

produce different properties radiating from said gemstone, depending on the changes

and alterations made. Therein, once again, lies the pertinence behind such, as no

unexpected result, viewed by one skilled in the art; will occur, with any of the above

possible changes or alterations to any given gemstone.

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Goldberg (US D459,268 S), Fuchs (US 6,591,827 B2), Tolkowsky (US D

500,700S), Reimer (US 2005/0081563 A1) and Schachter et al. (US 6,892,720 B2) are

cited to show state of the art with respect to oval-cut diamonds that have some of the

features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to RUTH C. RODRIGUEZ whose telephone number is

(571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Victor D. Batson can be reached on (571) 272-6987.

Submissions of your responses by facsimile transmission are encouraged. The

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(Signature)

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Any inquiry of a general nature or relating to the status of this application or

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Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/
Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
March 4, 2009

/Robert J. Sandy/
Primary Examiner, Art Unit 3677